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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,412	09/29/2003	Kenneth M. Lenkiewicz	71189-1553	2411
20915	7590	03/03/2004		
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			EXAMINER SNIDER, THERESA T	
			ART UNIT 1744	PAPER NUMBER

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/605,412

Applicant(s)

LENKIEWICZ ET AL.

Examiner

Theresa T. Snider

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 13-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 11 and 12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/29/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-10 and 13-14, drawn to an upright liquid extractor with recovery tank airflow features, classified in class 15, subclass 320.
 - II. Claims 11-12, drawn to an upright liquid extractor with electrical cord wrap, classified in class 15, subclass 323.
 - III. Claims 15-16, drawn to an upright liquid extractor with cooling of the vacuum motor, classified in class 15, subclass 320.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I-II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, each invention has separate utility such as in a liquid extractor not having any of the features of the other groups. See MPEP § 806.05(d).
3. Because these inventions are distinct for the reasons given above and the search required for Group I in class 15, subclass 353 and Class 15 is not required for any of the other Groups; and the search required for Group II in Class 15, subclasses 323 and 410 is not required for any of the other Groups; and the search required for Group III in subclass 413 is not required for any of the other Groups, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with John McGarry on 2/19/2004 a provisional election was made with traverse to prosecute the invention of Group II, claims 11-12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-10 and 13-16

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withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Specification

6. The disclosure is objected to because of the following informalities:

Exemplary of such:

The title and abstract should be amended to reflect the presently claimed/elected invention.

[0001], the status of the copending applications should be updated.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Exemplary of such:

Claim 11, line 3, 'module' should be replaced with 'housing';

Line 5, it is unclear as to what is meant by 'associated with'; are they simply in fluid communication or physically attached?

Line 5, 'module' should be replaced with 'housing';

Line 6, 'a' should be replaced with 'the';

Line 14, it is unclear as to what is meant by 'associated with'; are they simply in fluid communication or physically attached?

Line 25, 'the handle assembly' lacks proper antecedent basis;

Line 25, 'the cord' lacks proper antecedent basis(is it the one in line 26?).

Claim 12, line 1, 'A' should be replaced with 'The';

Line 2, 'collar' should be inserted after 'relief'.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bradd et al. in view of Rutter et al..

Bradd et al. discloses a base housing (fig. 1, #60).

Bradd et al. discloses an upright handle (fig. 1, #30).

Bradd et al. discloses a liquid dispenser system (col. 5, line 47-col. 6, lines 52).

Bradd et al. discloses a liquid supply tank removably mounted to the handle (fig. 1, #40).

Bradd et al. discloses a liquid supply conduit connected to the tank and the dispenser (col. 5, lines 47-55).

Bradd et al. discloses a recovery tank (fig. 1, #50).

Bradd et al. discloses a suction nozzle (fig. 1, #70).

Bradd et al. discloses a working air conduit connected between the nozzle and the recovery tank (col. 4, lines 61-col. 5, line12).

Bradd et al. discloses a vacuum source (col. 3, lines 35).

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Bradd et al. discloses a supply tank mounting assembly on the handle (col. 6, lines 60- col. 7, line 3).

Bradd et al. discloses a cord wrap on the handle (fig. 3, unnumbered element above #312). Rutter et al. discloses a surface cleaning apparatus with a cord wrap on the handle and an electrical cord, mounted to the handle, having a strain relief collar aligned with the cord wrap (figs. 3 & 5, #16, 114A, 114, unnumbered element located between element #16 and #106).

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bradd et al. in view of Rutter et al. as applied to claim 11 above, and further in view of McCabe et al..

Bradd et al. in view of Rutter et al. discloses a similar cleaning apparatus however fails to disclose the strain relief collar being formed of an elastomeric material.

Rutter et al. discloses the strain relief collar being a spring (fig. 3). McCabe et al. discloses a surface-cleaning machine having an electrical cord with a strain relief collar formed of an elastomeric material (fig. 19, #168). It would have been obvious to one of ordinary skill in the art to substitute the collar of Bradd et al. in view of Rutter et al. with that of McCabe et al. to prevent one from getting objects caught in the coils of the spring.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rennecker et al. and Jepson et al. disclose a surface cleaning apparatus having a cord wrap and electrical cord with an elastomeric strain relief collar. Yoshimi et al. and Lesco et al.

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disclose a surface-cleaning machine with cord wraps on the handle. Finnell discloses a surface cleaning apparatus having a cord wrap and electrical cord with an elastomeric strain relief collar aligned with the cord wrap.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Wednesday-Friday (6:30AM-3:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Theresa T. Snider
Primary Examiner
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02/20/2004